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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/964,060 | 09/26/2001 | Anthony Baerlocher | 406470 | 1422 |

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|---|
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| ART UNIT | PAPER NUMBER |
|---|---|
| 3713 | 3 |

DATE MAILED: 04/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

N.K.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 09/964,060 | BAERLOCHER, ANTHONY | |
| | Examin r | Art Unit | |
| | Aaron L Enatsky | 3713 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspond nc address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *26 September 2001* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-24* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 18 rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,089,976 to Schneider et al. ("Schneider"). Schneider teaches a gaming apparatus with a wager receipt mechanism, a player interface, a payout device, and a processor to control the game machine function (Fig. 2 and 6). The program displays numerous occluded values, which are revealed through player selection of the indicia. When two occluded values are revealed as matching, a pay value is awarded to a player (3:1-16). The second indicia that are initially occluded have shared commonalities and are substantially identical as a match is made when two of the same amounts are revealed.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Vanceva

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 7-8, 13-15, 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schneider as applied to claims 1-6, 18 above, and further in view of US Patent No. 6,309,300 to Glavich ("Glavich"). Schneider teaches the claimed limitations as discussed above, but does not

teach the occluded indicia as a multiplier. Glavich teaches a game providing player selectable indicia that reveals an occluded indicia when selected (Abstract). The prize could be a multiplier, and the multiplier can be a positive number (Fig. 3D). One would be motivated to modify Schneider to include the revealed prize as a multiplier as the multiplier would serve to enhance the entertainment value of the bonus game. A player's entertainment value and motivation to play the game would be increased if a player knew that a bonus payout might be substantial with a payout multiplier. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a multiplier as a prize to increase the game entertainment value.

In regard to claims 14 and 23, Schneider in view of Glavich teaches the claims limitations as discussed above, but does not teach selecting a second group indicia. However, it is long considered to be within the capabilities of one of ordinary skill in the art to duplicate that which is known. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to allow for a player selection of a plurality of groups of matching indicia, which allows a player to potentially increase winnings.

In regard to claim 22, Schneider in view of Glavich teaches the claims limitations as discussed above including multipliers, but does not teach a multiplier of 1. However Glavich teaches that an indicia selection can reveal a zero-value item, while not a multiplier, is equivalent to providing a player a multiplier of 1. Neither occluded values provides an increase to a players winnings, therefore it would have been obvious to substitute a zero value item with a x1 multiplier.

Just Schneider

Claims 9, 11, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schneider as applied to claims 1-6, 18 above, and further in view of GB Patent No. 2,144,644 to Barrie ("Barrie"). Schneider teaches the limitations as discussed above, but does not teach providing a game stopper indicia as one of the occluded indicia. Barrie teaches of a player selectable indicia revealing game that uses a game stopper indicia to indicate that a game has ended (Fig. 4). One would be motivated to modify Schneider to use the game stopper taught by Barrie as the game stopper would provide enhanced entertainment though game suspense. A player's excitement would be increased for every prize won, knowing that a poor selection was not made. Barrie describes the entertainment as providing a dramatic context of the game (2:69-76).

In regard to claim 11, Schneider teaches that a player continues to select indicia until a match is revealed (2:41-44). This provides for the occurrence of selecting a final remaining indicia signaling the end of the game.

In regard to claim 24, Barrie teaches that occluded selection indicia are randomly assigned award values (1:48-69). Additionally Barrie allows for prizes to be greater from one group to another (1:67-69).

Claims 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schneider in view of Barrie as applied to claims 1-6, 9, 11, 18, and 24 above, and further in view of US Patent No. 6,033,037 to Vancura ("Vancura"). Schneider in view of Barrie teaches the limitations as discussed above, but does not teach providing an end bonus indicator and additional selection attempts. Vancura teaches a game that provides end game indicators described as an L symbol (Fig. 4). The game ends after receiving a predetermined number of end game symbols (14:43-

47), where the number of allowable accrued end game indicators is a variable value (14:51-67). In one instance where the allowable accumulation of end game indicators is represented by N, where N=2, a player can receive a lose symbol and continue the game. Thus, in the case of N=2, receiving another end game indicator allows for at least one additional game move to create a matching pair. One would be motivated to modify Schneider in view of Barrie to include additional game play after the occurrence of an end bonus game as taught by Vancura, and furthermore allow a player to play until another match is made, thus providing a player an equivalent of a consolation prize. The addition of a consolation winning would allow players to feel that they can walk away with some winnings, instead of nothing, which would increase a player's perceived entertainment value, thus generating more interest in the game.

Claims 12, 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schneider in view of Glavich as applied to claims 1-8, 13-15, 22-23 above, and further in view of GB Patent No. 2,144,644 to Barrie ("Barrie"). Schneider in view of Glavich teaches the limitations as discussed above, but does not teach providing a game stopper indicia as one of the occluded indicia. Barrie teaches of a player selectable indicia revealing game that uses a game stopper indicia to indicate that a game has ended (Fig. 4). One would be motivated to modify Schneider in view of Glavich to use the game stopper taught by Barrie, as the game stopper would provide enhanced entertainment though game suspense. A player's excitement would be increased for every prize won, knowing that a poor selection was not made. Barrie describes the entertainment as providing a dramatic context of the game (2:69-76).

***Citation of Pertinent Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kaminkow et al. '141 teaches player selectable indicia in a game having multiple groups.

Olsen '273 teaches player selectable indicia requiring a match for prize payout.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron L Enatsky whose telephone number is 703-305-3525. The examiner can normally be reached on 8:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on 703-308-4119. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Aaron Enatsky
March 28, 2003

S. THOMAS HUGHES
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700